TEN CENT POCKET SERIES NO. 43
Edited by E. Haldeman-Julius

Marriage and Divorce

Horace Greeley and Robert Dale Owen

HALDEMAN-JULIUS COMPANY
GIRARD, KANSAS

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A DISCUSSION BETWEEN HORACE GREELEY AND ROBERT DALE OWEN.

(Editorial in The Tribune of March 1, 1860.)

OUR Legislature is again importuned to try its hand at increasing the facilities of divorce. We trust it will ponder long and carefully before it consents. That many persons are badly mated is true; but that is not the law's fault. The law of our State says plainly to all the unmarried, "Be very careful how you marry; for a mistake in this regard is irrevocable. The law does not constrain you to marry, does not hurry you to marry; but bids you be first *sure* that you know intimately and love devotedly the person with whom you form this irrevocable union. We rectify no mistakes; it rests with you not to make any. If you do, bear the penalty as you ought, and do not seek to transfer it to the shoulders of the community." And this, we think, is, in the broad view, right, though in special cases it involves hardship.

The paradise of free-lovers is the State of Indiana, where the lax principles of Robert Dale Owen, and the utter want of principle of John Pettit (leading revisers of the laws), combined to establish, some years since, a state of law which enables men or women to get unmarried nearly at pleasure. A legal friend in that State recently remarked to us, that, at one County Court, he obtained eleven divorces one day before dinner; "and it wasn't a good morning for divorces either." In one case within his knowledge, a prominent citizen of an Eastern manufacturing city came to Indiana, went through the usual routine, obtained his divorce about dinner-time, and, in the course of the evening was married to his new inamorata, who had

come on for the purpose, and was staying at the same hotel with him. They soon started for home, having no more use for the State of Indiana; and, on arriving, he introduced his new wife to her astonished predecessor, whom he notified that she must pack up and go, as there was no room for her in that house any longer. So she went.

How many want such facility of divorcing in New York? We trust not one in a hundred. If we are right in this judgment, let the ninety-nine make themselves heard at Albany as well as the one. The discontented are always active; the contented ought not to sleep evermore.

We favor whatever may be done to mitigate the hardships endured by mismated persons in perfect consistency with the maintenance of the sanctity and perpetuity of Marriage. Cases are constantly occurring in which a virtuous and worthy girl persists in marrying a dissolute scapegrace, in spite of the most conclusive demonstrations of his worthlessness. Five years hence, when he has become a miserable loafer and sot, she will wish herself divorced from him; but the law says No, and we stand by it. But the law ought to allow her to earn for herself and her little ones, and not enable him to appropriate and squander her few hard-won shillings. This is asked for, and ought to be granted. So the law should allow the woman who is living wholly separate from her husband, by reason of his brutality, cruelty, or profligacy, to have the same control over her property and earnings as if she had never married. This is not now the case. Nay; we know an instance in which a woman, long since separated from her worthless husband, and trying hard to earn a meagre living for their children, was disabled and crippled by a railroad accident; yet the law gives her no right of action against the culpable company; her broken ankles are legally her runaway husband's, not her own; and he would probably sell them outright for a gallon of good brandy, and let

the company finish the job of breaking them at its convenience. We heartily approve of such changes in our laws as would make this deserted wife the legal owner of her own ankles; but we would not dissolve the marriage obligation to constancy for any other cause than that recognized as sufficient by Jesus Christ.

MR. OWEN'S RESPONSE.

(From The Tribune of March 5, 1860.)

To the Editor of the New York Tribune:—

Sir: Retired from political life, and now disposed to address the public, if at all, through a calmer medium than the columns of a daily paper, still, I cannot read the allusion in this morning's Tribune, made in connection with an important subject, to my adopted State and to myself by name, without feeling that justice to both, and, what is of more consequence, the fair statement of a question involving much of human morality and happiness, require of me a few words. You say:—

"The Paradise of free-lovers is the State of Indiana, where the lax principles of Robert Dale Owen, and the utter want of principle of John Pettit (leading revisers of the laws), combined to establish, some years since, a state of law which enables men and women to get unmarried nearly at pleasure."

You are usually, I think, correct in your statements of fact, and I doubtless always intend to be so. That in this endeavor you sometimes fail, we have a proof to-day.

So far as I recollect, the Indiana law of divorce does not owe a single section to Mr. Pettit. Be that, however, as it may, it owes one of its provisions, *and one only*, to me. I found that law thirty-four years ago, when I first became a resident of the State, in substance nearly what it now is; indeed with all its essential features the same. It was once referred to myself, in conjunction with another member of the Legislature, for revision; and we amended it in a single point; namely, by adding to the causes of divorce "habitual drunkenness for two years." In no other particular, either by vote or proposition, have I been instrumental in framing or amending the law in question, directly or indirectly.

Do not imagine, however, that I seek to avoid any responsibility in regard to that law as it stands. I

cordially approve it. It has stood the test for forty or fifty years among a people whom, if you knew them as intimately as I do, candor would compel you to admit to be, according to the strictest standard of morality you may set up, not one whit behind those of sister States, perhaps of more pretensions. I approve the law, not on principle only, but because, for more than half a lifetime, I have witnessed its practical workings. I speak of its influence on *our own citizens*. It is much to be regretted that any one should ever be compelled to seek a divorce out of his own State. But, even in alluding to abuses which *have* occurred in this connection, you failed to tell your readers, what perhaps you did not know, that our law has of late years been so changed that the cases you state cannot possibly recur. No one can now sue for a divorce in Indiana, until he has been during one year, at least a resident of the State; and the provision regarding timely notice to the absent party is of the strictest kind.

You speak of Indiana as "the Paradise of free-lovers." It is in New York and New England, refusing reasonable divorce, that free-love prevails; not in Indiana. I never even heard the name there. You locate Paradise, then, too far west.

And does it not occur to you, when a million of men,—chiefly plain, hardy, industrious farmers, with wifes whom, after the homely old fashion, they love, and daughters whose chastity and happiness are as dear to them as if their homes were the wealthiest in the land,—does it not occur to Horace Greeley that, when these men go on deliberately for half a century maintaining unchanged (or, if changed at all, made more liberal) a law of divorce which he denounces as breeding disorder and immorality,—that the million, with their long experience, may be right, and that Horace Greeley, without that experience, may be wrong?

You talk of my "lax principles." I think that, by

my past life, I have earned the right to be believed when I say what *are* my principles and what are not.

On this subject, they go just so far as the Indiana law, and no further. I have given proof of this. I have had a hundred opportunities, and never used them, to move its amendment. I was chairman of the Revision Committee of our Constitutional Convention; but in our Constitution we incorporated nothing in regard to divorce, except a prohibition against all divorces by the Legislature. To that, I think you will not object. At the next session, I was chairman of the committee to revise the laws; but we merely reenacted the old divorce law, of which experience had taught us the benefits. It grants divorce for other causes than the one your law selects,—as for abandonment; for cruel treatment; for habitual drunkenness; and for any other cause for which the court may deem it proper that a divorce should be granted.

Are these "lax principles"? I claim to have them judged according to a Christian rule. "By their fruits ye shall know them." You have elopements, adultery, which your law, by rendering it indispensable to release, virtually encourages; you have free-love, and that most terrible of all social evils, prostitution. We, instead, have regulated, legal separations. You may feel disposed to thank God that you are not as other men, or even as these Indianians. I think that we are justified in His sight, rather than you.

Or is it, perhaps, the amendment I *did* propose and carry which seems to you lax in principle?—the provision, namely, that a wife should not be compelled to live with one who has been, for years, an habitual drunkard. You have told us that she ought to be so compelled. It constantly occurs, you say, that a "virtuous and worthy girl" marries a man who "becomes a miserable loafer and sot"; and you add: "She will wish herself divorced from him;

but the law says No, and we stand to it."

Think, for a moment, what this actually involves! Let us take the "single captive," lest the multiplicity of images distract us. See the young creature, "virtuous and worthy," awaiting, late in the solitary night, the fate to which, for life, you consign her; and that for no sin more heinous than that her girl's heart, believing in human goodness, had trusted the vows and promises of a scoundrel. Is it her home where she is sitting? Let us not so desecrate the hallowed word. It is the den of her sufferings and of her shame. A bloated wretch, whom daily and nightly debauch has degraded below humanity, has the right to enter it. In what temper he will arrive, God alone knows,—all the animal within him, probably, aroused by drink. Will he beat her,—the mother of his children, the one he has sworn to love and protect? Likely enough. Ah! well if that be all! The scourge, though its strokes may cause the flesh to shudder, cannot reach the soul. But the possible outrages of this "miserable loafer and sot" may. . He has the command of torments, legally permitted, far beyond those of the lash. That bedchamber is his, and the bed is the beast's own lair. It depends, too, on the brute's drunken will whether it shall be shared or not. Caliban is lord and master, by legal right. There is not a womanly instinct that he cannot outrage; not a holy emotion that he may not profane. He is authorized to commit what more resembles an infamous crime—usually rated second to murder, and often punished with death—than anything else.

And in this foul pit of degradation you would leave to a fate too horrible for infamy itself, a pure, gentle, blameless, Christian wife! Her cry thence may ascend to heaven; but, on earth, you think it should be stifled or contemned. She entreats for relief,—for escape from the pollution she abhors; you look down upon her misery, and answer her, "The law says No, and we stand to it."

God forgive you, Horace Greeley, the inhuman sentiment! I believe you to be a good man, desiring human improvement, the friend of what you deem essential to social morality. God send that you may never, in the person of a daughter of your own, and in the recital of her tortures, practically learn the terrible lesson how far you have strayed from the right.

Further to argue the general question would be an unwarrantable intrusion on your columns. Suffice it to say, that, if I differ from you as to the expediency of occasionally dissolving misery-bringing unions, it is precisely because I regard the marriage relation as the holiest of earthly institutions. It is for that very reason that I seek to preserve its purity, when other expedients fail, by the besom of divorce. No human relation ought to be suffered so to degenerate that it defeats the purpose of its institution. God imposes no laws on man merely to have the pleasure of seeing them obeyed; but, on the contrary, with special reference to His creatures' welfare and improvement. Marriage itself, like the Sabbath, was made for man; not man for marriage. It fulfils God's intentions so long as the domestic home is the abode of purity, of noble sentiment, of loving-kindness, or, at least, of mutual forbearance. But it defeats His purpose, and violates the Divine economy, when it becomes the daily cause of grievous words and heartless deeds,—of anger, strifes, selfishness, cruelty, ruffianism. That it should ever be thus degraded and perverted, all good men must lament; and all ought earnestly to seek the most effectual remedy.

In no country have I found the marriage obligation so little binding as in the nation (Naples) near whose court, as minister, I recently spent five years, —a country where Marriage is a sacrament and Divorce an impossibility; and where, indeed, on account of their "lax principles," the inhabitants neither need nor care for it. In no country have I

seen marriage and its vows more strictly respected than in my adopted State, where the relation, when it engenders immorality, may be terminated by law. For the rest, divorces in Indiana are far less frequent than strangers, reading our divorce law, might be led to imagine. We find Jefferson's words to be as true of married persons as of the rest of mankind. They "are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they have been accustomed."

The question remains, whether it be more pleasing in the sight of God, and more conducive to virtue in man, to part decently in peace, or to live on in shameful discord.

I am, sir, your obedient servant,

ROBERT DALE OWEN.

NEW YORK, March 1, 1860.

REPLY BY MR. GREELEY.

(From The Tribune of March 6, 1860.)

TO THE HON. ROBERT DALE OWEN, OF INDIANA:—

MY DEAR SIR: I had not expected to provoke your letter this day published; but the subject is one of the highest and widest importance, and I am very willing to aid in its further elucidation.

I do not think the issues of fact raised by you need long detain us. The country knows that you have for the last thirty years and more been a leading member of the generally dominant party in Indiana,—almost the only member who could with propriety be termed a political philosopher. As such, you have naturally exerted a very great influence over the legislation and internal policy of that State. Often a member of her Legislature as well as of Congress, and one of the revisers of her laws, you admit that the Law of Marriage and Divorce came at one time directly and distinctly under review before you, and that you ingrafted thereon a provision adding another—habitual drunkenness—to the pre-existing grounds on which divorce might legally be granted. As to "lax principles," I need not say more than that I cite your letter now before me as a sample and illustration.

But let me brush away one cobweb of your brain. You picture the case of a pure and gentle woman exposed to the brutalities and cruelties of a beastly sot of a husband. For such cases, *our* laws grant a separation from bed and board,—not a disruption of the marriage tie, with liberty to marry again. I think this is just right. I would not let loose such a wretch as you have depicted to delude and torture another "pure and virtuous girl." Let one victim suffice him.

Your reference to the "blameless *Christian* wife," and to what is "more pleasing in the sight of God," impels me to say that I must consider Jesus of Nazareth a better authority as to what is Christian

and what pleases God than you are. His testimony on this point is express and unequivocal (Matt. xix. 9), that a marriage can be rightfully dissolved because of adultery alone. You well know that was not the law either of Jews or Romans in his day, so that he cannot have been misled by custom or tradition, even were it possible for him to have been mistaken. I believe he was wholly right.

For what *is* Marriage? I mind the Apostolic injunction, "Hold fast the form of sound words." Dr. Webster's great dictionary says:—

"MARRIAGE: The act of uniting a man and woman *for life;* wedlock; the legal union of a man and woman *for life. Marriage* is a contract both civil and religious, by which the parties engage to live together in mutual affection and fidelity *till death shall separate them.*"

So Worcester:—

"MARRIAGE: the act of marrying, or uniting a man and woman *for life* as husband and wife," &c., &c.

I surely need not quote to you the language of the marriage ceremony,—the mutual and solemn promise to "take each other for better, for worse," and "to live together *till death do part,*" &c., &c. You must be aware that the entire Christian, and I think most of the partially civilized pagan world, regard this solemn contract to cleave to each other *till death* as the very essence, the vital element, of marriage.

Now it is not here necessary that I should prove this better than any possible substitute: suffice it that I insist that whoever would recommend a substitute should clearly, specifically, set forth its nature and conditions, and should call it by its distinctive name. There may be something better than Marriage; but nothing *is Marriage* but a solemn engagement to live together in faith and love *till death.* Why should not they, who have devised something better than old-fashioned Marriage, give their bantling a distinctive *name,* and not appropriate ours? They have been often enough warned off our prem-

ises; shall we never be able to shame them out of their unwarrantable poaching?

I am perfectly willing to see all social experiments tried that any earnest rational being deems calculated to promote the well-being of the human family; but I insist that this matter of Marriage and Divorce has passed beyond the reasonable scope of experiment. The ground has all been travelled over and over:—from Indissoluble Monogamic Marriage down through Polygamy, Concubinage, easy Divorce, to absolute Free Love, mankind have tried every possible modification and shade of relation between Man and Woman. If these multiform, protracted, diversified, infinitely repeated, experiments have not established the superiority of the union of one man to one woman for life—in short, Marriage—to all other forms of sexual relation, then History is a deluding mist, and Man has hitherto lived in vain.

But you assert that the people of Indiana are emphatically moral and chaste in their domestic relations. That may be; at all events, *I* have not yet called it in question. Indiana is yet a young State,—not so old as either you or I,—and most of her adult population were born, and I think most of them were reared and married, in States which teach and maintain the Indissolubility of Marriage. That population is yet sparse; the greater part of it in moderate circumstances, engaged in rural industry, and but slightly exposed to the temptations born of crowds, luxury, and idleness. In such circumstances, continence would probably be general, even were Marriage unknown. But let Time and Change do their work, and then see! Given the population of Italy in the days of the Cæsars, with easy divorce, and I believe the result would be like that experienced by the Roman Republic, which, under the sway of easy divorce, rotted away and perished,—blasted by the mildew of unchaste mothers and dissolute homes.

If experiments are to be tried in the direction you

favor, I insist that they shall be tried fairly,—not under cover of false promises and baseless pretences. Let those who will take each other on trial; but let such unions have a distinct name as in Paris or Hayti, and let us know just who are married (old style), and who have formed unions to be maintained or terminated as circumstances shall dictate. Those who choose the latter will of course consummate it without benefit of clergy; but I do not see how they need even so much ceremony as that of jumping the broomstick. "I'll love you so long as I'm able, and swear for no longer than this,"—what need is there of any solemnity to hallow such a union? What libertine would hesitate to promise that much, even if fully resolved to decamp next morning? If man and woman are to be true to each other only so long as they shall find constancy the dictate of their several inclinations, there can be no such crime as adultery, and mankind have too long been defrauded of innocent enjoyment by priestly anathemas and ghostly maledictions. Let us each do what for the moment shall give us pleasurable sensations, and let all such fantasies as God, Duty, Conscience, Retribution, Eternity, be banished to the moles and the bats, with other forgotten rubbish of bygone ages of darkness and unreal terrors.

But if—as I firmly believe—Marriage is a matter which concerns not only the men and women who contract it, but the State, the community, mankind, —if its object be not merely the mutual gratification and advantage of the husband and wife, but the due sustenance, nurture, and education of their children,—if, in other words, those who voluntarily incur the obligations of parentage can only discharge those obligations personally and conjointly, and to that end are bound to live together in love, at least until their youngest child shall have attained perfect physical and intellectual maturity,—then I deny that a marriage can be dissolved save by death or that crime which alone renders its continuance im-

possible. I look beyond the special case to the general law, and to the reason which underlies that law; and I say,—No couple can innocently take upon themselves the obligations of Marriage until they KNOW that they are one in spirit, and so must remain forever. If they rashly lay profane hands on the ark, theirs alone is the blame; be theirs alone the penalty! They have no right to cast it on that public which admonished and entreated them to forbear, but admonished and entreated in vain. Yours,

HORACE GREELEY.

NEW YORK, March 5, 1860.

MR. OWEN'S REJOINDER.

(From The Tribune of March 12, 1860.)

To the Hon. Horace Greeley:—

My dear Sir: In one matter we shall not differ, and that is in the opinion that Jesus of Nazareth should be considered better authority as to what is Christian—and I will add as to what is conducive to public morals—than either you or I. The longer I live, the more I settle down to the conviction that *the* one great miracle of history is, that a system of ethics so far in advance as was the Christian System, not only of the semi-barbarism of Jewish life eighteen hundred years ago, but of what we term the civilization of our own day, should have taken root, and lived, and spread, where every opinion seemed adverse and every influence hostile. But, before we take Christ's opinion on the subject in hand, let us go a little further back.

You tell us that "the very essence of marriage" is, that the married should "cleave to each other till death." And, as a corollary, you insist that, if this condition is ever violated (as by the action of a divorce law), then it is *not* Marriage which prevails, but only a substitute. You add:—

"I insist that whoever would recommend such substitute should clearly, specifically set forth its nature and conditions, and should call it by its distinctive name. There may be something better than Marriage, but nothing *is Marriage* but a solemn engagement to live together *till death.* Why should not they who have devised something better than old-fashioned Marriage give their bantling a distinctive *name,* and not appropriate ours? They have been often warned off our premises; shall we never be able to shame them out of their unwarrantable poaching?" [The Italics are yours.]

This is plain. If the law regards Marriage as a contract which, under any circumstances, may be terminated, then (you allege) men and women live

together under what is but a substitute for marriage,—under what should go by the name of concubinage, or some similar term. Such is the state of things, you infer, under the present Indiana law.

I do not think you reflected what a sweeping assertion you were here making. For there is not a State in the Union—not even New York—which is without a divorce law. In every State of the Union, therefore, Marriage is a contract of such a nature that contingencies *may* arise under which the married may *not* "live together until death them do part." If, then, the possible contingency of separation, legally admitted, annuls "the very essence of marriage," and converts it into concubinage, in what condition, I pray you, are married people living throughout the United States?

The same state of things prevails in all Protestant countries. Only in those which acknowledge the Pope as their religious head is Marriage an indissoluble sacrament. Is it your opinion that Catholics only are really married?

But this is a mere instalment of the difficulties which inhere in your proposition. Moses, of whom we are told (Deuteronomy v. 31) that God said to him: "Stand thou here by me, and I will speak unto thee all the commandments, and the statutes, and the judgments which thou shalt teach my people," promulgated to the Jews a law of divorce. Our divorce-law in Indiana must be, even in your eyes, a moral statute, compared to that of the Jewish lawgiver; for the latter provided: "When a man hath taken a wife and married her, and it come to pass that she find no favor in his eyes, then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. And when she is departed out of his house, she may go and be another man's wife." (Deuteronomy xxiv. I.) This, unless you deny the record, you must admit to be God's own law. It was first declared, according to the usual chronology, about 1450 years before the

Christian era. It remained unchanged till Christ's day. Joseph and Mary were married under it; and the former, when he doubted Mary's fidelity, was "minded to put her away privily." For fourteen centuries and a half, then, God's chosen people, living under His law, had, according to you, a mere substitute for marriage. What distinctive name the "bantling" deserves, I leave to your judgment. We have been accustomed to regard it as "old-fashioned marriage." It is certain, however, that the contract, under such a law, was, "I will be your husband just as long as you find favor in my eyes; and, as soon as you cease to do so, you shall have a bill of divorcement, and be sent out of my house. Then you may marry whom you please."

Jesus tells us that this law was given "because of the hardness of their hearts"; or, as we should now express it, because of the low grade of morality then existing in Judea. Nevertheless, if it really be God's own law, how can you allege that it is wrong in itself? But, if it be not wrong, then divorce, even of the easiest attainment, must, in a certain state of society, be right. And hence results another important principle; namely, that there is no absolute right or wrong about this matter of divorce; but that it may properly vary in its details at different stages of civilization. It is certain that, under the Divine Economy, our modern sense of propriety and morality has been so developed, that we should not tolerate the Jewish statute giving uncontrolled license to the husband, but no right of relief whatever to the wife.

Jesus, discarding the old law, is stated to have proposed (as you remind us) to the people of his day a substitute where there was but a single cause for divorce,—the same recognized by the New York statute. But his idea of conjugal infidelity was not that entertained in our courts of law. He looked, beyond surface-morality, to the heart. In his pure eyes, the thought and the act were of equal criminal

ity. His words were: "Whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart." (Matthew v. 28.) The fair inference seems to be, that the proper cause for divorce is, not the mere physical act of infidelity, but that adultery of the heart which quenches conjugal love; thus destroying that which, far more justly than your cohabitation till death, may be regarded as "the very essence of Marriage."

I do not allege that Jesus so connected his two teachings,—that regarding divorce and that defining adultery,—that the Jews of his day, gross-minded as they were, might detect the connection and perceive its inference. If the Hebrews, in Moses' time, were so steeped in barbarism that nothing better than the bill-of-divorcement privilege was suitable for them, we may readily imagine that, even after fourteen centuries had elapsed, enough of the hardness of heart would remain to justify a law, in advance of the other, indeed, but still only adapted to a hard, material race,—a race who had not learned that the letter killeth, but the spirit giveth life,—a race who cannot be supposed to have been capable of appreciating, hardly of comprehending, a morality of standard so exalted that the thought is brought to judgment though the deed disclose it not.

I will go further and admit that, if the words of Jesus, in the text quoted by you, have come down to us reported with strict accuracy, he may have intended the men of his day to put upon them, as best adapted to their *social status*, the literally material interpretation which seems to have suggested itself to the framers of the New York divorce law. Jesus was not one who urged reform, as some modern innovators do, rashly or prematurely. Prudence was one of his distinguishing characteristics. He said not all that was in itself true and proper to be said at some time, but only all the truths which the people to whom he addressed himself were prepared to receive. That he kept back a part, we have his own

words to prove: "I have yet many things to say unto you, but ye cannot bear them now; howbeit, when He, the Spirit of Truth, is come, he will guide you into all truth." (John xvi. 12, 13.)

Yet, even if you law-makers but received the same impression that was produced on the Jews by Jesus' words, it by no means follows that it is the one adapted to our wants and progress. It by no means follows that *we* should not look beyond the dead letter to the living spirit. If the divorce law promulgated from Mount Sinai was no longer adapted to a world grown fifteen hundred years older, are we to suppose that eighteen hundred years more, passed away, have brought with them no need for another advance and a more enlightened interpretation?

Thus, I think, I have shown you:—

First. That it will not do to warn us who think Divorce a moralizing engine, as poachers, off your self-enclosed premises; or to bid us seek some name other than Marriage wherewith to designate our legal unions. The Bible tells us that the ancestors of Christ were really married; and I never heard this denied, till your doctrine denied it.

Second. That, according to the Old Testament, easy divorce was expressly permitted, three thousand years ago, by the Deity himself.

Third. That divorce laws may properly vary, in different stages of civilization. And

Fourth. That the language of Jesus, fairly construed, designates the proper cause of divorce to be, that infidelity of the heart which defeats the true purpose of marriage.

In conclusion, permit me to say, as to the quasi-divorce to which, under the name of "separation from bed and board," you refer, and which you think "just right," that of all the various kinds of divorce it has been found, in practice, to be the most immoral in its tendency. The subjects of it, in

that nondescript state which is neither married nor single, are exposed—as every person of strong affection must be who takes a vow of celibacy yet mixes with the world—to powerful temptations. Unable to marry, the chances are, that these law-condemned celibates may do worse. I think that those members of your bar with whom the procurement of legal separations is a specialty could make to you some startling disclosures on this subject.

But, be this as it may, what becomes of the "mutual and solemn vow to live together till death them do part"? What becomes of the dictionary definitions which you adduce about being "united for life," and about "affection and fidelity till death shall separate them"? Does not your policy of "separation from bed and board" as effectually extinguish these, and thus, according to your view, as completely convert Marriage into a concubinal substitute, as my remedy of Divorce?

I am, my dear sir, faithfully yours,

ROBERT DALE OWEN.

New York, March 6, 1860.

MR. GREELEY AGAIN.

(From The Tribune of March 17, 1860.)

TO THE HON. ROBERT DALE OWEN OF INDIANA:—

DEAR SIR: In my former letter, I asserted, and I think proved, that

I. The established, express, unequivocal dictionary meaning of Marriage is *union for life.* Whether any other sort of union of man and woman be or be not more rational, more beneficent, more moral, more Christian than this, it is certain that *this is Marriage*, and that that other is something else.

II. That this is what we who are legally married —at all events, if married by the ministers of any Christian denomination—uniformly covenant to do. I distinctly remember that *my* marriage covenant was "for better, for worse," and "until death do part." I presume yours was the same.

III. That Jesus of Nazareth, in opposition to the ideas and usages current in his time, alike among Jews and Gentiles, expressly declared Adultery to be the only valid reason for dissolving a marriage.

IV. That the nature and inherent *reason* of Marriage inexorably demand that it be indissoluble except for that one crime which destroys its essential condition. In other words, no marriage can be innocently dissolved; but the husband or wife may be released from the engagement upon proof of the utter and flagrant violation of its essential condition by the other party.

And now, allow me to say that I do not see that your second letter successfully assails any of these positions. You do not, and cannot, deny that our standard dictionaries define Marriage as I do, and deny the name to any temporary arrangement; you do not deny that I have truly stated Christ's doctrine on the subject (whereof the Christian ceremonial of Marriage, whether in the Catholic or Protestant Churches, is a standing evidence); and I am willing

to let your criticism on Christ's statement pass without comment. So with regard to Moses: I am content to leave Moses's law of divorce to the brief but pungent commentary of Jesus, and his unquestionably correct averment that "from the beginning, it was not so."

But you say that, if my position is sound, I make "a sweeping assertion" against the validity of the marriages now existing in Indiana and other divorcing States. O no, sir! Nine tenths of the people in those States—I trust, ninety-nine hundredths—were married by Christian ministers, under the law of Christ. They solemnly covenanted to remain faithful until death, and they are fulfilling that promise. Your easy-divorce laws are nothing to them; their conscience and their lives have no part in those laws. Your State might decree that any couple may divorce themselves at pleasure, and still those who regard Jesus as their Divine Master and Teacher, would hold fast to his Word, and live according to a "higher law" than that revised and relaxed by you.

I dissent entirely from your dictum that the words of Jesus relative to Marriage and Divorce may have been intended to have a local and temporary application. On the contrary, I believe he, unlike Moses, promulgated the eternal and universal law, founded, not in accommodation to special circumstances, but in the essential nature of God and man. I admit that he may sometimes have withheld the truth that he deemed his auditors unable to comprehend and accept, but I insist that what he *did* set forth was the absolute, unchanging fact. But I did not cite him to overbear reason by authority, because you referred first to Christianity and the will of God, and because I believe what he said respecting Marriage to be the very truth. Can you seriously imagine that your personal exegesis on his words should outweigh the uniform tradition and practice of all Christendom?

You understand, I presume, that I hold to separations "from bed and board"—as the laws of this State allow them—only in cases where the party thus separated is in danger of bodily harm from the ferocity of an insane, intemperate, or otherwise brutalized, infuriated husband or wife. I do not admit that even such peril can relieve one from the vow of continence, which is the vital condition of Marriage. It may possibly be that there is "temptation" involved in the position of one thus legally separated; but I judge this evil far less than that which must result from the easy dissolution of Marriage.

For here is the vital truth that your theory overlooks: The Divine end of Marriage is parentage, or the perpetuation and increase of the Human Race. To this end, it is indispensable—at least eminently desirable—that each child should enjoy protection, nurture, sustenance, at the hands of a mother not only, but of a father also. In other words, the parents should be so attached, so devoted to each other, that they shall be practically separable but by death. Creatures of appetite, fools of temptation, lovers of change, as men are, there is but one talisman potent to distinguish between genuine affection and its meretricious counterfeit; and that is the solemn, searching question, "Do you know this woman so thoroughly, and love her so profoundly, that you can assuredly promise that you will forsake all others and cleave to her only until death?" If you can, your union is one that God has hallowed, and man may honor and approve; but if not, wait till you can thus pledge yourself to some one irrevocably, invoking heaven and earth to witness your truth. If you rush into a union with one whom you do not thus know and love, and who does not thus know and love you, yours is the crime, and shame; yours be the life-long penalty. I do not think, as men and women actually are, this law can be improved; when we reach

the spirit-world, I presume we shall find a Divine law adapted to its requirements, and to our moral condition. Here, I am satisfied with that set forth by Jesus Christ. And, while I admit that individual cases of hardship arise under ths law, I hold that there is seldom an unhappy marriage that was not originally an unworthy one,—hasty and heedless, if not positively vicious. And, if people *will* transgress, God can scarcely save them from consequent suffering; and I do not think you or I can.

Yours,

HORACE GREELEY.

New York, March 11, 1860.

A CORRECTION.

(From The Tribune of March 12, 1860).

To the Editor of the N. Y. Tribune:—

Sir: Your paper of yesterday, 12th inst., contains a letter bearing the signature of Robert Dale Owen. After eulogizing the doctrine of the New Testament, which is carried out in the law of the State of New York, and which only permits divorce in case of adultery, the writer falls foul of that "semi-barbarous" people, the Jews, and their legislator, Moses, whose law of divorce Mr. R. D. Owen professes to quote *verbatim* from Deuteronomy xxiv 7: "When a man hath taken a wife and married her, and it come to pass that she find no favor in his eyes, then let him write her a bill of divorcement and give it in her hand, and send her out of his house." Now, I would respectfully ask of Mr. R. D. Owen, how is it, that, in transcribing these words out of the Bible, he has left out and altogether omitted the words "because he hath found some uncleanness in her," which form an integral part of the first verse in the twenty-fourth chapter of Deuteronomy, after the sentence, "find no favor in his eyes," and before the sentence, "then let him write," &c.

These words omitted by Mr. R. D. Owen form the gist of the whole law on Divorce. For the Hebrew word *ervah*, which the English version here renders "uncleanness," is throughout sacred Scripture invariably used to express illicit sexual intercourse. *Vide* Leviticus xviii., where the word occurs several times, and is rendered "nakedness."

Into the argument on Divorce it is not my intention to enter; and, as it is not parliamentary to impute motives, I must not say that Mr. Owen intentionally mutilated the text he quotes, leaving out words which fully prove that this Word of God, through Moses His servant, so cavalierly, not to say unfairly, treated by Mr. R. D. Owen, is identical

with the law of our State, which he praises as derived from the New Testament. But I should like to know, and I ask you, Mr. Editor, what degree of confidence and consideration can be due to the assertions and opinions of a disputant who, professing to quote *verbatim* from a book so well known as the Bible, "somehow" contrives to omit the pith and marrow of a law against which he directs his assault?

Yours,

A SEMI-BARBAROUS RABBI.

REPLY BY MR. OWEN

(From The Tribune of March 19, 1860).

To "A Semi-Barbarous Rabbi":—

Sir: I omitted the words in the text from Deuteronomy, to which in to-day's Tribune you refer, intentionally. If they were at all essential to the true understanding of the text, you are right in taking me severely to task for their omission. A man who would garble a quotation from any book to suit his purpose ought to forfeit all claim to public confidence.

I omitted them from what you may term a weakness, or may pronounce to be mere fastidiousness. My studies never having gone beyond Greek, the Old Testament, in its original tongue, is a sealed book to me. The expression, "because he hath found some uncleanness in her," conveyed to my mind no idea except as a phrase, couched in terms less veiled than modern usage is wont to employ, to mean disgust produced by some personal habit or idiosyncrasy. If in this I was not mistaken, the words are clearly non-essential; and I might innocently consult my feelings by omitting them in the columns of a daily paper.

But if, as you assert, the Hebrew word rendered "uncleanness" means "adultery," the omission was a grave one, even if not wilfully committed.

Does it mean adultery? If, without presumption, one who has never cultivated those roots of which that impudent fellow who indited Hudibras declared that they "flourish most on barren ground" may venture to argue the point with a Rabbi, I ask leave to take issue as to this interpretation. The subject, indeed, is a disagreeable one; but, in self-defense, I cannot now choose but follow whither you lead; namely, to the chapter cited by you, Leviticus xviii., where, as you inform us, the same word rendered "uncleanness" in Deuteronomy occurs several times,

and is translated "nakedness." The first verse in which this happens reads thus: "The nakedness of thy father and the nakedness of thy mother thou shalt not uncover." If, as you allege, the word *ervah*, here translated "nakedness," is "throughout Sacred Scripture invariably used to express illicit sexual intercourse," or, as in a wife's case it would be, adultery; and if in the above text we substitute the one word for the other (as, if you are right, we may properly do), we shall have a text which you may comprehend, but which, to my obtuser perceptions, becomes wholly unintelligible.

I, in what your learning may set down as my simplicity, have always interpreted the text in question as referring to that offence which Shem and Japheth avoided, and for which Canaan (Genesis ix. 25) was cursed.

The word "uncleanness" does, indeed, in another text (Numbers v. 19), mean adultery; but, to give it that meaning other defining words are expressly added. The priest, in that text, thus addresses the woman suspected of infidelity, "If no man have lain with thee, and if thou hast not gone aside to uncleanness *with another instead of thy husband*, be thou free," &c. Even in this text, however, if we were to attempt to substitute "adultery" for "uncleanness," we should not only have flagrant tautology, but a phrase that would seem to favor the idea that a wife might commit adultery with her husband as well as with other men; a thing, I must confess, I never before heard of.

But, independently of all this, the very words of the text seem to preclude your reading. Those words are: "If it come to pass that she (the wife) find no favor in his eyes because of some uncleanness," &c. Now, a wife may be said to "find no favor" in a husband's eyes, if her person or her character become disagreeable to him; but who would ever select such a phrase for a graver occasion? What would you think of saying, "Mrs.

Smith found no favor in Mr. Smith's eyes, because of some acts of adultery"?

Finally, a difficulty remains which, in my eyes, as in the eyes of all Christians it must be, is insuperable; though "A Semi-Barbarous Rabbi," perhaps, may get over it. *Jesus did not interpret the text as you do.*

Your assertion is, that Moses' law "is identical with the law of your State" (New York); that is to say, that it allowed Divorce for no other cause except adultery. If that was so, why, I pray you, did Jesus say: "Moses, because of the hardness of your hearts, suffered you to put away your wives"? And why did he add: "But in the beginning it was not so; and I say unto you: Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery"? You make Moses' law and Jesus' law identical. Yet here we find Jesus discarding the one as a permission granted only because of the old Hebrews' hard hearts, and substituting the other. But was there nothing to discard? Were the law discarded and the substitute inculcated one and the same? That, as every reasonable man must see, is a sheer impossibility, for we cannot imagine Jesus' words to be meaningless, nor conclude that he was trifling with his audience, and recommending, for their adoption, the self-same thing he condemned.

We know, as well as we can know any historical fact, that, at the time when we are told that Jesus declared adultery to be the only valid cause for divorce, that declaration was, as Mr. Greeley, in his last letter, reminds us, "in opposition to the laws and usages alike among Jews and Gentiles."

I am not well informed as to how far Rabbis usually regard the words or the opinions of Jesus as authoritative. For myself, if I am in error,—if the ancient Jews, as you allege, were not permitted to divorce their wives "except it be for fornication," and if, in consequence, there was, in Christ's

day, nothing to reform in the Jewish divorce law,—it is enough for me to know that, in adhering (as, after a careful survey of the whole ground, I do) to the opposite opinion, I am but adopting the views and sharing the interpretation put forth by the Author of the Christian religion.

ROBERT DALE OWEN.

New York, Saturday, March 17, 1860.

COMMENT BY MR. GREELEY.

ALL this strikes us as very absurd, and based on an unaccountable lack of perception. The fundamental idea of the Mosaic law is personal and perfect *purity*. Moses, therefore, permitted the husband who had been deceived as to the chastity, *prior to marriage*, of his wife, to put her away. This Jesus disallowed, as a temporary or local permission, based on grounds peculiar to the Hebrew economy, reestablishing in its stead the law as it was "from the beginning," that only incontinence, *after marriage*, can afford a valid reason for divorce.

MR. OWEN IN RESPONSE.

THE WORD "ERVAH."

(From The Tribune of March 24, 1860).

TO THE EDITOR OF THE N. Y. TRIBUNE:—

SIR: Unwilling to rest under the imputation cast on me by you in to-day's "Tribune," namely, that my views in reply to a "Semi-Barbarous Rabbi" are "very absurd," and are "based on an unaccountable lack of perception," I have looked a little more closely into the philology of the question, and beg leave here to present to you the result.

Gesenius, than whom, you are aware, there is no better authority, in his Hebrew Lexicon, translates ERVAH, *turpitudo, fœditas;* and referring specially to the bill-of-divorcement text (Deuteronomy xxiv. 1), he renders it *"Macula aliqua in muliere reperta";* that is, "a blemish (or spot) found in the woman." You can consult this Lexicon in the Astor Library.

In Luther's Translation of the Bible (to be found in the same Library), at the text above referred to, that reformer, in explaining the word "uncleanness," parenthesises thus: (*um etwas das ihm misfällt, es sey an ihrem Leibe oder Gebärden oder Sitten, die sich aber sonst züchtig verhällt;*) which, if you are familiar with German, you know to mean: ("in regard to something which displeases him, either in her person or in her demeanor, or in her conduct, without imputation, however, on her chastity.") The word *züchtig* means strictly *chaste, modest.* One could hardly find anything more in accordance with my interpretation than this.

Again, the learned Ewald (in his "Geschichte des Volks Israel," Vol. II. of Anhang, page 185), commenting on the Jewish bill of divorcement, says: *Und sicher enthielte ein solcher Brief keinen weitern Tadel der Frau als wäre er ein Klagebrief gewesen; sondern diente der Frau eher als ein Zeugniss dass*

ihrer Wiederheirath nichts im Wege stehe: that is, "And such a document certainly imputed no further blame to the wife than if it had been a mere letter of complaint; on the contrary, it rather served as a certificate in her hands, in proof that there was no obstacle to a second marriage."

I think you will no longer deny that, if my views are "very absurd," they are at least sustained by the best Hebrew Lexicon of the day, by a writer of the highest authority on Hebrew history, and, finally, that they are indorsed beyond all possible doubt, by the Great Reformer himself. These learned men must all have shared my "unaccountable lack of perception."

Whence you disinterred your idea that incontinence in the wife *prior to marriage* was the Mosaic ground of permission to put her away I have no idea whatever. Certainly not from the Old Testament, so far as I am acquainted with its pages. As I read there, incontinence before marriage, unless disproved (Deuteronomy xxii. 20, 21), was, according to the Mosaic law, punishable, not by a bill of divorcement, but by a cruel death.

Yours,

ROBERT DALE OWEN.

New York, Monday, March 19, 1860.

MR. OWEN RESUMES.

DIVORCE.

(From The Tribune of March 28, 1860).

TO THE HON. HORACE GREELEY:—

MY DEAR SIR: You derive your arguments against Divorce from two sources:

1. From Scripture.

2. From the morality of the case.

I. If you regard the Old Testament as a portion of the Word of God, you must admit that the Jewish bill-of-divorcement law was framed, not by a fallible lawgiver, but by the Deity himself, Moses being only the medium of its promulgation.

If you accept the authority of Gesenius, of Ewald, and of Luther, you must further concede to me that that bill-of-divorcement law permitted a husband to put away a faithful wife in any case in which she became personally disagreeable, or in her deportment obnoxious to him, and that he was sole judge whether she found favor in his eyes or not.

These premises conceded, it follows, that, upwards of three thousand years ago, God sanctioned a law which permitted a husband to put away his wife when she displeased him, by means of a simple bill of divorcement, drawn up by the husband himself.

The New Testament informs us, and you remind us, that Jesus, fourteen centuries later, disallowed that law. But he did not condemn it as a law which ought never to have existed; he intimates that it was rendered necessary by the "hard hearts" of those for whose guidance it was framed.

Then the law of God, enacted thirty-two centuries ago, was declared by Jesus, eighteen centuries ago, to be no longer adapted to the state of human society.

What follows? That there is no positive good or evil,—no absolute virtue or vice? Far from it. There are principles permanent as the everlasting hills, immutable as the laws that hold the planets to their course; principles that depend not on times and seasons, that are the same yesterday, to-day, and forever. Such, to select an eminent example, is the declaration, "Love is the fulfilling of the law." It was true from the creation; it will be true until time shall be no more.

But the details of a law are one thing, and a great, eternal principle another. Laws properly change as the world changes. But the master principles underlying laws—the "laws of the laws," to adopt Bacon's phrase—endure while the world lasts.

Beyond the general rule, however, we have, in this particular case, the direct authority of Jesus for it, that a divorce law adapted to one age may cease to be suitable in another.

But, if the details of a Divine law three thousand years old were properly rejected in a later stage of society, is it not certain that the same *may* be true in our age of other details put forth by Jesus as suitable for the Jews of his day? for men so low in the social scale that they found in his teachings nothing but blasphemy, and rewarded them by mockings and scourgings, and a death of torture on the cross?

It follows, past all denial, that while, as Christians, we should be guided by the great principles taught by the Author of our religion, we are *not* bound by the details of a law adapted to Judea in the days of Herod the King; provided our moral sense, moulded and quickened by Christian study, leads us to the conclusion that we—less hard of heart than those who cried out, "Crucify him!" —can bear other laws and greater liberty than they.

And thus, at last, we are thrown back, for guidance, to the second source whence your arguments are derived.

II. In other words: What is the true morality of the case?

"The Divine end of Marriage," you say, "is the perpetuation and increase of the human race."

Has civilization, in our day, reached no further than this? Do we find in the holiest of human relations no higher, nobler object—no end more divine—than the operation of that instinct (common to man with the lower races) which peoples the

earth? God has, indeed, ordained that, incidental to Marriage, and inseparable from it, shall be Reproduction.. If, in any sense, it be true that this is *the* divine end of human marriage, it must be in the same sense which applies when the stag seeks his partner, or the dove submits to her mate. But, just in proportion as man is nobler than the bird of the air or the beast of the field, is his marriage removed to infinite distance above theirs. Woe to that bride, standing in her white robes before the altar, who is thought of, by the one at her side, only as the future bearer of his children! Woe to her, if she has not chosen a spouse whose heart is swelled with aspirations that overmaster the sensual; in whose soul there burns not a light pure enough and bright enough to quench, in such a moment as that, the lurid flames of desire?

It is one of the most beautiful and beneficent arrangements which mark the Divine economy, that an institution—a physical incident of which is the propagation of the race—should, in its higher and nobler results, be the means of calling forth all that is best and purest in the inner nature of man; love, in the broadest acceptation of that much profaned word,—love, that crushes man's innate selfishness, and teaches him the great lesson that the best happiness is to be found in cares for another, not in thoughts for himself; love that is heightened, indeed, by the warmth of earthly emotions, but has an existence above and apart from these; to remain when age has quenched passion, —to endure beyond the term of our present stage of existence.

In that higher phase of wedded life which has its origin in sentiments and aspirations such as these, not in the results of our nature's lower instincts, will a cultivated mind, in its best moments, recognize "the Divine of Marriage." If, some day, released from the daily round and deafening whirl of politics, you give to your better instincts, in

quiet, fair scope and free voice, I think they will teach you this.

Meanwhile, we are here at issue. You have one conception of the Divine end of Marriage, I another. If yours be the correct idea, then it may be that nothing except that which casts doubt on the parentage of offspring should be valid cause for the dissolution of Marriage. If, on the contrary, I have more justly interpreted the higher purposes of that institution, then whatever violates these defeats the Divine end of Marriage, and supplies rightful cause why the relation, failing in its true intent, should be discontinued. It is a sound principle in jurisprudence, that, with the termination of the cause for a law, the law also should cease.

I do not merely say, in cases where the holiest purposes for which God ordained Marriage are frustrated, its divinest ends defeated, and its inmost sanctuary defiled, by evil passions, that the relation, thus outraged *may* not improperly cease: I say that, for the sake of virtue and for the good of mankind, in all such demoralizing cases, it *ought* to cease. Household strife is immorality; domestic hatred is immorality; heartless selfishness is immorality; inhuman treatment of the weak by the strong is terrible immorality. And that condition of things, degenerate from a noble purpose, which fosters evils such as these, has become itself immoral and demands abatement.

Why, in its vice-fostering perversion, should a life of bickering be dragged on, till death, at last, brings separation and peace? In the interests of the children, perhaps? But is that the atmosphere in which their young lives should expand? Or, is it in order that that intangible generality called Society may be propitiated and appeased? But how, I beg of you, can the true interests of Society be subserved by perpetuating immorality among its members? What sort of Moloch is this Society

that demands the immolation of its own offspring?

What further objection do you interpose? In substance, this,—that men and women about to marry, exercising deliberation and discrimination, ought never to select ill; and that, if they do, "theirs is the crime and the shame, and theirs should be the life-long penalty."

If a lawgiver, directly or virtually, demands impossibilities, his laws will fail of their effect. In making his demands, then, he should have special reference to the powers likely to be at the disposal of those of whom these demands are made. It avails nothing to say that a thing ought to be, if, as a general rule, it cannot be.

But of all requirements, the most arduous—arduous even when mature thought has brought wisdom, and when age has conferred experience—is the decision whether a being, loved now, is the one of all others, intellectually, morally, physically, to whom, in a true home, we can impart permanent happiness, and from whom we are capable of receiving it. Mortal eyes, even the wisest, never fully penetrate the veil. There may be that beyond which no foresight could anticipate.

And, if such be the case, with wisdom and experience to guide, what shall we expect from unsuspicious faith, just entering a false world, serenely ignorant of its treacheries, an utter stranger to its guile? Will its goodness be its protection? The reverse. In such a trial, it is the noblest who are the most exposed. The better the nature, the more imminent the danger it encounters. The cold, the heartless, the calculating, have fair chance of escape; it is the warm, the trusting, the generous, who are the usual sufferers. What belief so blind as that of first, pure, young affection? What so easily cheated as a fresh and faithful and innocent heart?

And by what right, according to what principle, I pray you, do we decide that there is one mistake that is never to be corrected; one error, the most

fatal of all, which, once committed, we shall never be permitted to repair?

A "life-long penalty" you would inflict. And for what heinous offence? Say that an honest mistake were a crime; say that a venial error were a career of shame. Even then, the sentiment would be Jewish, not Christian. "An eye for an eye, a tooth for a tooth," was the rule addressed to the hard hearts. Nowhere, in all Christ's teachings, will you find the like. The sin of your brother, sinning seven times, you would not forgive; yet, as a Christian, you ought to forgive it, even seventy times seventy. The entrance to the father's house you would bar against the returning prodigal. His, you would declare to him, was "the sin, the shame"; his should be "the life-long penalty." No rejoicing that he was dead and is alive again; no weeping joy that he was lost and is found!

Let us dismiss abstractions, and stand face to face with the realities of life. The time may come when men and women (the eyesight of the affections opened) shall unfailingly distinguish and choose their own appropriate mates. I have heard enthusiasts argue that it will; and that there is a future before mankind, even on earth, in which conjugal separation and divorce will be unknown terms. God send it! But, meanwhile, it is with the present, and its errors, and its evils, and its sufferings, and its temptations to sin, that we have to deal. Where we fail to cure, it is our duty to alleviate. If we cannot make all the married virtuous and happy, let us do what we can, by humane laws of prevention, to relieve from immoral situations; and thus to diminish domestic misery and arrest household vice.

I thank you, my dear sir, for the opportunity afforded to discuss this subject, and am

Faithfully yours,

ROBERT DALE OWEN.

New York, Tuesday, March 20, 1860.

MR. GREELEY'S REJOINDER.

(From The Tribune of April 7, 1860).

To Robert Dale Owen:—

Dear Sir: As you have intimated your willingness that our discussion should here close, I will endeavor to introduce no new views into this letter. I will simply sum up the controversy as it stands.

I. I have hitherto shown, and you have not attempted to disprove, that Marriage is, according to every standard dictionary, *a union for life*, indissoluble at the pleasure of those married, or either of them. I have insisted that you have no right to use this important word in a vitally different sense from that given to it by the great lexicographers. What you favor may be ever so much better than Marriage (though I believe it far otherwise), but it is manifestly not the same thing, and you ought to give it a distinctive name. When I am told that two persons are married, I understand that they have covenanted to live together as husband and wife, not during pleasure, but during life. The dictionaries, the Christian religion, the general consent of my countrymen and of the civilized world, fully justfy me in that conception. When, therefore, you apply the term Marriage to a very different compact, you merely use words unjustifiably, but you virtually confess the badness of your cause. The tradesman who counterfeits another's trade-marks virtually confesses the inferiority of his own wares. I protest, then, against your using the word Marriage to designate any other union than one for life. If A and B have agreed, with ever so much ceremony, to live as man and wife until one or both of them shall see fit to separate and form new relations, they may be ever so wisely and rationally paired, but they are not married. I made this point as strongly before; our readers will judge whether you have or

have not met it. At all events, I mind the Apostle's injunction to "Hold fast the form of sound words." We who stand by Marriage as Jesus Christ established and Noah Webster defines it, have a right to the word by which that relation has ever been characterized. What you advocate is quite another thing,—be pleased to give it a distinguishing name. Then, if we call our compact by your name, the public will understand that we admit your union to be more rational, honorable, ennobling, than ours. At all events, we warn you off our premises, and insist that you shall not lay your eggs in our nest. If you demand liberty to form temporary unions, we will consider that demand; but you must not call them marriages; for, though they may be the same to you, they are far otherwise to us.

II. As to the religious or Christian view of the subject, I rest on the simple, explicit averment of Jesus of Nazareth, as universally understood and regarded by the Christian Church for eighteen centuries. We know what Hebrew, Greek, Roman laws and customs respecting the marital union were in Christ's day; we know that Jesus propounded and his disciples accepted a very different law, —that of Marriage indissoluble but by death, or by that crime which is death to all the sanctities of Marriage. We know that Orthodox and Heretic, Catholic and Protestant, literal and liberal, with barely exceptions enough to prove the rule, have understood the Saviour's doctrine of Marriage throughout the Christian centuries as I do to-day. That this Christian doctrine of Marriage is a chief reason for the moral, intellectual, and even material, supremacy of Europe over Asia in our day, I do most firmly believe; *you* will regard it as you think fit. And, as to Moses and his law, with all you have to say of them, all the answer that seems to me needed is contained in the few words of Jesus on that very point: "Moses, for the hardness of your hearts," permitted easy divorce; "but

from, the beginning it was not so."

III. I have said that "the Divine end of Marriage is the perpetuation and increase of the human race." By that affirmation I abide. Of course, I did not say that Marriage has no other end than this; so all your criticism seems to me ludicrously inapposite. I do not urge that, in a true sexual union, everything else but the production, nurture, and well-being of children, must be ignored. I *do* insist that there must be nothing incompatible or inconsistent with this. If required to say whether the union of this man with this woman is true, noble, and honorable, or sensual, selfish, and debasing, I must ask, "Would they gladly have children born of it? Would they proudly acknowledge those children before the world, and undertake to fulfil toward them all the duties of parents?"

If not, their union, though impelled by mutual admiration, and signalized by a lava-flood of passion, is shameful and unblest. The sexual union which the immediate parties prefer should be childless has no right to be at all.

I was shocked when I heard an apostle of your faith say, some years since, "We hold that the parents are not to be *sacrificed* to the children." I hold, on the contrary, that the lives of true parents are filled with acts of self-sacrifice for their children,—that their lives have been well spent who have given to the world offspring nobler than themselves. And, while I admit that the conduct of a husband may be so outrageous, so brutal, as to justify the innocent wife in requiring a separation, I insist that one who truly comprehends the nature and purposes of Marriage will not seek to marry another while the father of her children is still living. I do not think she could look those children in the eye with all a mother's conscious purity and dignity while realizing that their father and her husband, both living, were different men. Nor do I feel that she could be to them all that a

mother should be under such conditions.

IV. The vice of our age, the main source of its aberrations, is a morbid Egotism, which overrides the gravest social necessities in its mad pursuit of individual, personal ends. Your fling at that "intangible generality called SOCIETY" is directly in point. You are concerned chiefly for those who, having married unfortunately, if not viciously, seek relief from their bonds; I am anxious rather to prevent, or at least to render infrequent, immoral, and unfit sexual unions hereafter. The miseries of the unfitly mated may be deplorable; but to make divorce easy is in effect to invite the sensual and selfish to profane the sanctions of Marriage whenever appetite and temptation may prompt. Here are a man and a woman who know absolutely nothing of each other but that they are reciprocally pleased with each other's appearance, and think Marriage would conduce to their mutual enjoyment, —so they form a connubial partnership. Next year—perhaps next month—they have tired of each other, —discovered incompatibilities of temper,—quarrelled,—in short, they hate each other, as they very well may; so they are divorced, and ready to marry again. Gibbon intimates that, under the Roman liberty of Divorce, by which Rome was debauched and ultimately ruined, a woman had eight husbands within five years. Mr. Owen, whenever you shall have succeeded in appropriating our word Marriage as a fig-leaf for this sort of thing, you will cause us to invent or appropriate some other term to characterize what *we* mean by Marriage; and then you will very soon drop your own dishonored designation and come coveting ours again. So please leave us what belongs to us, and choose a new term for *your* arrangement now.

"It is very hard," said a culprit to the judge who sentenced him, "that I should be so severely punished for merely stealing a horse." "Man," replied the judge, "you are *not* so punished for merely

stealing a horse, but *that horses may not be stolen.*" The distinction seems to me clear and vital. The wedded in soul may know each other if they will; it is impossible that others should certainly know them. To those who are thus wedded, the covenant to "take each other for better, for worse," and "to live together till death do part," has no terrors; they enter upon it without hesitation, and fulfil its conditions without regret. But to the libertine, the egotist, the selfish, sensual seeker of personal and present enjoyment at whatever cost to others, the Indissolubility of Marriage is an obstacle, a restraint, a terror; and God forbid that it should ever cease to be! Thousands would take a wife as readily, as thoughtlessly, as heartlessly, as they don a new coat or sport a new cravat, if it were understood that they might unmarry themselves whenever satiety, or disgust, or mutual dislike, should prompt to that step. But it is not so, Mr. Owen, even in Indiana. Men and women are married, even in Indiana, "for better, for worse," and under solemn covenant to "live together till death do part"; and they cannot resort to Divorce, even there, without conscious shame or general reprobation. That human laws may be everywhere conformed to the Divine, and no sexual union hallowed by Church or State but that union for life which alone is true Marriage, is the ardent hope of

Yours,

HORACE GREELEY.

New York, March 31, 1860.

MR. OWEN'S CLOSING ARGUMENT.

(From The Tribune of April 21, 1860).

To the Hon. Horace Greeley:—

My Dear Sir: Imitating your precaution, I shall, in summing up, avoid the introduction of new views; I shall also study strictest brevity. Had your summing up fairly presented the question at issue, the public need not have been troubled with mine.

It is a besetting weakness of our nature to imagine itself unfailingly right, its opinions infallibly true, its rules of action the only morality. If, in a discussion of principles, we yield to this, the best thing is to close it; because, conducted in such a spirit, it becomes useless, or worse.

The sole point of our discussion, and that which might be usefully, if dispassionately, debated, has been this: You advocate a divorce law with one only cause of divorce: I think it conducive to public morality that such a law should admit several causes. I took that position, and I took no other. I indorsed the divorce law of Indiana; nothing more. But how, in summing up, do you state the case? In substance, thus: Marriage under a single-cause divorce law, as in New York, *is* Marriage. There is no other Marriage. What goes by that name, under a divorce law admitting several causes, as in Connecticut or Indiana, is *not* Marriage, but concubinage. If those who are united under such laws call themselves married, they "use words unjustifiably"; they "virtually confess the badness of their cause"; they are as "tradesmen who counterfeit another's trade-mark"; they are countenancing the Roman woman who had "eight husbands within five years," and appropriating Mr. Greeley's word Marriage "as a fig-leaf for this sort of thing." They must "choose a new term for *their* arrangement." Horace Greeley, armed with Noah Webster, declares to them, that "they may be ever so wisely and

rationally paired, but they are not married," and he "protests against their using the word."

The law of Connecticut, the law of Indiana, declares, that Marriage, contracted under a divorce law admitting several causes, and by virtue of which the union *may*, in certain contingencies, terminate before death, "*is Marriage.*" Horace Greeley tells them it is "quite another thing." The law of Connecticut, the law of Indiana, provides, if a couple, legally divorced, contract a second marriage, such second marriage is legal. Horace Greeley insists that they "must not call that Marriage; for, though it may be the same to them, it is far otherwise to him."

Here is a conflict. The Revised Codes of Connecticut and Indiana (and of a dozen other States beside) declare one thing: Horace Greeley declares the opposite. The one or the other, it is evident, must be grievously in error.

Popes, from the Vatican, have, not unfrequently, assumed the power, as to certain laws enacted by duly constituted legal authority in various Catholic countries, by Papal Bull to override and annul them. But in our country we consider the law supreme; in force, and to be acknowledged and respected, until it be legally repealed.

This is not all. In your summing up, motives are imputed. Those who enact or approve a divorce law which admits more causes than one are told that "they are concerned chiefly for those who, having married unfortunately, if not viciously, seek relief"; and that this arises from a "morbid egotism, the vice of our age, which overrides the gravest social necessities in its mad pursuit of individual, personal ends."

Does it not occur to you, when men vote for or sanction reasonable divorce laws, they *may* do so from a conscientious motive? Does it not occur to you, that when an opponent expresses the opinion, "in cases where the holiest purposes for which God

ordained Marriage are frustrated, and its inmost sanctuary defiled by evil passions, it ought for the sake of virtue to cease,"—that he *may* be sincere in that opinion? Have you forgotten that there is One only who looks into the heart and reads its motives; and that no human being has a right, setting himself up as judge and ruler, to usurp His place?

The story of the horse-thief (told that he was punished not merely for his offence, but "*that horses may not be stolen*"), if it has any bearing on the subject at all, has an unfair one. Horse-stealing is a crime. To take it for granted that Divorce also is one is to prejudge the whole question under discussion. Again; if the meaning be, that the unhappily married should suffer, not merely for their mistake, but *that divorces may not be granted*, then you fall into the same error as the Jews, when they, zealous without knowledge for their Sabbath, were reminded by Jesus, in the spirit of the truest philosophy, that human institutions are made for man, not man for human institutions.

Others may have argued that children ought to be sacrificed to parents. I hold, and ever have held, that there is no duty more sacred than that which we owe to those to whom we impart existence. It is a misfortune, and a great one, that a mother should look her children in the eye, and think that their father, then living, and her husband, are different men. But far greater is the misfortune when she looks upon them with the bitter consciousness that they are daily, hourly, learning to know in their father a sot, a brute, a ruffian, the desecrator of the domestic sanctuary; far greater is the anguish to feel that that father never teaches them one lesson of virtue, never gives them one useful example, except it be such as the Helots furnished to the Spartan youth; a terrible beacon, warning from the shame and the folly of intemperance.

If you conclude that divorce laws necessarily

cause young people to marry as readily and heartlessly as they don a fresh hat or sport a new bonnet, you do your fellow-creatures great injustice; and a few years residence in Indiana would convince you of your mistake. You might be reminded of what, even at our age, we ought not to have forgotten,—what manner of thing, namely, youthful affection is; how undoubtingly it believes, how wholly it trusts; how little it calculates laws or troubles itself about Divorce, or dreams of anything except that it shall always love as it loves now; constancy a pleasure even more than a duty and change an impossible desire. We often err in ascribing to the restraining influence of faulty laws that which is due to the faithful impulses of our better nature.

You remind us, on Gibbon's authority, that the liberty of Divorce was grossly abused in debauched Rome. I remind you that the liberty of Republicanism was terribly abused in revolutionary France. But it would be a poor argument thence to conclude, that, in this country, we ought to forbid divorce and introduce a monarchy.

The moral and intellectual supremacy of Europe over Asia you ascribe mainly to Christian Marriage. To Christian Marriage, as opposed to Polygamy, it may justly be thus ascribed. This opinion I myself, in a recent work, expressed: "Under the system of Monogamy alone have man's physical powers and moral attributes ever maintained their ascendancy; while weakness and national decadence follow in the train of Polygamy, whether openly carried out, as in Deseret and Constantinople, or secretly practised, as in London and New York."

But this has no bearing on the Divorce question. You will not assert that the morals were better before the Reformation, in Catholic countries refusing divorce, than they were after Luther's time in Protestant countries permitting it.

Briefly summing up, I remind you:—

1. That I proved, and you have not attempted to disprove, that, according to the Old Testament, God promulgated, more than three thousand years ago, a divorce law permitting a husband to put away a wife who found no favor in his eyes; that the law prevailed among His chosen people from the time of Moses till long after Joseph and Mary were united subject to its provisions; and, consequently, that if Marriage, determinable by Divorce, be no Marriage, there was not a married man or woman among the Jews for fifteen hundred years.

2. I have shown, and you have admitted, that Jesus disallowed that law; not denying that it was suitable at the period it was given, yet declaring that, in his day, it ought not to prevail. I thence deduced the inference, not assailed by you, that, according to Scripture, divorce laws may properly vary in different stages of civilization.

3. I have stated, what the best legal authority indorses, that, of the various kinds of Divorce, none has been found, in practice, so immoral as that variety, unknown to our Indiana law, but known in New York as "separation from bed and board." You think it "just right." Let the public judge between us.

4. Referring to our modern state of civilization, I have argued, that the present age is prepared to see, in the holiest of human relations, purposes far higher, infinitely more worthy the epithet divine, than the mere operation of the instinct that peoples the earth; that Marriage was designed to be, and should be, the means of calling out all that is best and purest in the inner nature of man; and that, when it becomes the daily source of anger, strife, cruelty, brutality, it defeats God's purpose, violates the Divine economy, becomes itself immoral and ought to cease. You dissent. Again be the public the judge in the premises.

But if in these I dissent, there are other points as to which, in concluding this controversy, I am

glad to agree with you. I agree that every State has a direct interest in the private morals of its members. I agree that whatever policy is found, in the end, best calculated to promote these morals, ought to prevail. I agree that it is one of the greatest of earthly blessings, when a married couple dwell together in unity till death. I agree that no light or transient cause should dissolve the conjugal union. I agree that men and women ought mutually to bear and forbear "while evils are sufferable," rather than to right themselves by resort to separation or divorce. I agree, further, that a state of things which leads to Divorce is to be deprecated and lamented, and that Divorce itself is a grave misfortune. And I but add that, when a long train of abuses and immoralities, pursuing invariably the same course, clearly shows that a union has become destructive of its holy ends, then it ought to be a right, and may become a duty, to select of two evils the lesser; to acquiesce in the necessity which indicates a separation, and legally to dissolve the bands which connect the ill-mated members together.

In taking leave of you, suffer me to correct an error which crept into my second letter. I there said that there was not a State of the Union without a Divorce law. I ought to have added, "except the State of South Carolina." She boasts that "within her limits, a divorce has not been granted since the Revolution." But suspend your approbation till you learn, as Bishop will inform you, what is the concomitant: "Not only is adultery not indictable there (in South Carolina), but the Legislature has found it necessary to regulate, by statute, how large a proportion a married man may give of his property to his concubine."

You will admit that your system of Indissoluble Marriage is dearly paid for, under such a state of things; nor have you been in the habit of as-

serting that the morals of divorce-denying South Carolina are superior to those of Connecticut or Indiana.

I am, my dear sir,

Faithfully yours,

ROBERT DALE OWEN.

Philadelphia, April 9, 1860.

MR. GREELEY CLOSING THE DSCUSSION.

(From The Tribune of April 31, 1860.)

To the Hon. Robert Dale Owen:—

Sir: I understood from you that your concluding letter would be that to which I last replied; but, since you have deemed it necessary to write again, I necessarily, yet willingly, rejoin. As before, I shall confine myself strictly to the points made in your last.

I. You seem to complain that I consider my side of the question at issue the side of Morality and Right. But, if I did not, why should I so earnestly uphold it? Do I complain of *your* holding your own side in similar regard? Assuredly, I cannot change my convictions, and should not be required to conceal them. Indeed, since you admit that my conviction is grounded in a "besetting weakness of our nature," you surely cannot regard it with surprise, any more than I can deem it a reason for closing our discussion; though I have at all times since you began it been willing to close it.

II. You think the difference between us to be simply this: I allow Divorce for a single cause (Adultery), you for several causes; and you would thus reduce it, from a question of principle to one of details. But you cannot deny that my one ground of Divorce is that expressly affirmed to be such by Jesus Christ, to the exclusion and negation of all others. Nor can you fail to see that if, as I hold, the paramount (not sole) Divine end of Marriage is Parentage, or the perpetuation and increase, under fit auspices, of the Human Race, then the crime which vitiates and confuses parentage may logically be deemed the sole sufficient reason for annulling a marriage. To my mind, therefore, our difference is clearly and emphatically one of principle. I do not hold that even Adultery justifies the dissolution of a marriage so far as the cul-

pable party is concerned. It simply authorizes, but by no means requires, the faithful, exemplary husband or wife to procure a legal adjudication and declaration of the fact that this marriage has—solely through the infidelity of the adulterer—been dissolved, so far only as it imposes duties or obligations on the wronged and innocent party.

III. As to what constitutes Marriage,—what Marriage *is*.—I have quoted the standard lexicographers of our language, who unanimously pronounce it a union and consecration of one man to one woman *for life*, and deny the name to all other unions. Your quarrel on this point is not with me, but with the dictionaries, as well as with the Christian Church. I have made no new definitions; I have simply insisted that those which have stood unchallenged hitherto shall be recognized and respected. Not by me primarily, but by Jesus of Nazareth, and, following him, by Noah Webster and Dr. Worcester, have the definitions I rest on been set forth. If they truly define the term, then the mutual promise of a man and woman to live together until one of them shall have proved a sot, a termagant, a ruffian, or a beast, is *not* a marriage. If you insist that the authorities I quote mistake or misstate the true meaning and force of the term, why do you not quote lexicographers who favor *your* rendering? Is it not clear that you would have done so, had there been any? And, if there be none, how can you complain of me for insisting that the word Marriage shall be held to mean that, and that only, which our standard dictionaries say it *does* mean?

IV. And this disposes of your talk of "Horace Greeley" saying this or that, in opposition to your own views. If any part of what I have urged rests on the naked dictum of Horace Greeley, it is, of course, of little moment; but, if it is correctly based on the explicit teachings of Jesus Christ, on the unbroken tradition and nearly universal affirma-

tion of the Christian Church, on the lessons of Profane History (see Gibbon), the definitions of standard lexicographers, and the concurring judgment of a vast majority of the wise and good, why, then, you see, the case is bravely altered, and the fact that I reaffirm what all of these have constantly asserted, does not necessarily render it insignificant, nor subject it to ridicule.

V. You dwell on the fact that the codes of Indiana and of some other States permit Divorce for other cause than Adultery, as though this proved the people of those States not married, according to my understanding of the term. But I have already urged the fact that, in those States, as elsewhere, Christian Marriage is unqualifiedly a union for life, and that most of those who marry there are married by clergymen in a strict and open accordance with the Christian law. You know, as well as I do, that divorce, followed by another marriage, rarely fails to cover with odium the parties involved in it, or at least some of them. You may not know, however, as I do, that, in repeated instances, persons divorced under the State laws you glory in, and otherwise married, have been excommunicated therefor by Protestant churches, clergymen being silenced for the same cause. That no Catholic would even dream of contracting such second marriage, no matter in what State or under whatever permission of the secular authority, you, of course, fully understand. I must protest, then, against your inference, from the fact that the laws of certain States allow Divorce on various grounds, that their people are in verity generally educated and married, and afterward live, under the law as you would have it. The "higher law" is their safeguard.

VI. I am surprised that you could so mistake my application of the judge's remark, that he punished the horse-thief, "not for stealing a horse, but that horses may not be stolen."

My idea was, and is, that Marriage is rightfully made indissoluble, in order that unfit and unreal marriages may not be contracted. Say that a legal marriage may be nullified merely because the parties find or fancy themselves unsuited to each other, or unhappy in their union, and I defy you to guard against so-called marriages whereof the impulse is mere appetite or worldly convenience. Such unions, in fact, are made, and will be made, under whatever laws. But tens of thousands of libertines, lechers, egotists, who would take a new wife at least every Christmas, if they could legally and reputably rid themselves in season of the old one, are appalled and deterred by the stern exaction of solemn promise to fulfil all the obligations of husband and wife "till death do part." We cannot, even thus, be sure that *all* marital unions will be genuine marriages; but I know no other touchstone which that "intangible something called Society" can apply half so searching as this.

VII. As to whatever discrepancy may exist between the teachings of Moses and of Jesus respectively, regarding Divorce, they present no difficulty to my mind. I hold the law of Moses (not the Decalogue, which says nothing of Divorce) to have been local and temporary in its application; while that of Jesus is permanent and universal. Hence my adhesion to the latter.

VIII. The vital difference between us seems to me to hinge just here: You regard primarily those who have made false marriages,—who have wedded hastily, giddily, carnally, viciously,—and seek to relieve them from the inevitable consequence of their errors. I, on the other hand, am more intent on dissuading and deterring others from following their bad example, and so plunging, like Dives, "into the torment." If you could unmarry every discordant pair to-morrow, and should thereby teach the yet single that they might marry in haste and get divorced at leisure, you would not diminish, but

greatly increase, the aggregate of human woe; while, if I could convince the giddy millions of heedless youth that Marriage is the most important, serious, solemn incident of their lives, and that whoever contracts it on the strength of pleasing features and a six-weeks' acquaintance commits a crime which will assuredly and fearfully punish its perpetrators, I should do mankind the greater service, even though I should thereby render it certain that no divorce be evermore granted. Believing that unhappy unions were mainly, in their outset, unworthy ones, and that none who marry truly and nobly ever need seek or wish for Divorce, I must continue to uphold the law given through the words of Jesus of Nazareth, which, I am happy to know, is substantially identical with the law of New York. The Puritan pioneers of New England, it is jocularly said, resolved to take the law of God for their guidance until they should find time to make a better. Lacking not merely the leisure to frame such better law, but the faith to anticipate or seek it, I purpose to hold by what I clearly, undoubtingly, accord with Christendom in understanding to be the Law of Marriage as enunciated by Him who "spake as never man spake." In the hope that further reflection and observation may bring you to a realizing sense of its wisdom and benignity,

I remain, yours,

HORACE GREELEY.

New York, April 25, 1860.

NOTE.
INDIANA DIVORCE LAW, AS IN FORCE MARCH 1, 1860.

(*Revised Statutes of Indiana*, Vol. II. pp. 234 to 237)

6. Divorces may be decreed by the Circuit Courts of this State on petition filed by any person who, at the time of the filing of such petition, shall have been a *bona fide* resident of the State one year previous to the filing of the same, and a resident of the county at the time of the filing of such petition, which *bona fide* residence shall be duly proven by such petitioner to the satisfaction of the Court trying the same.

7. Divorces shall be decreed, upon the application of the injured party, for the following causes:—

1. Adultery, except as hereinafter provided.
2. Impotency.
3. Abandonment for one year.
4. Cruel treatment of either party by the other.
5. Habitual drunkenness of either party, or the failure of the husband to make reasonable provision for his family.
6. The conviction, subsequent to the marriage, in any country, of either party of an infamous crime.
7. *Any other cause* for which the Court shall deem it proper that a divorce should be granted.

8. Divorces shall not be granted for adultery in any of the following cases:—

1. When the offense has been committed with the connivance of the party seeking the divorce.
2. When the party seeking the divorce has voluntarily cohabited with the other, with knowledge of the fact; or has failed to file his or her petition for two years after he or she has discovered the same.
3. When the party seeking the divorce has also been guilty of adultery, under such circumstances as

would have entitled the opposite party, if innocent, to a divorce.

. . . . . .

§21. The Court, in decreeing a divorce, shall make provision for the guardianship, custody, support, and education, of the minor children of such marriage.

. . . . . .

§23. The divorce of one party shall fully dissolve the marriage contract as to both.

§24. A divorce decreed in any other State by a court having jurisdiction thereof shall have full effect in this state.

. . . . . .

§27. Wherever a petition for divorce remains undefended, it shall be the duty of the prosecuting attorney to appear and resist such petition.

(The other sections refer to modes of procedure, legitimacy, property rights, etc. The Indiana law does not permit limited divorce.)

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